



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

August 28, 2001

OFFICE OF
ENVIRONMENTAL INFORMATION

LeRoy E. Euvrard, Jr.
Safety and Environmental Staff
2230 Burnet Avenue
Cincinnati, Ohio 45219-3114

Dear Mr. Euvrard, Jr.:

This letter responds to your June 21, 2001, letter requesting guidance regarding the reporting requirements of section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). Specifically, you are asking for guidance about the articles exemption provided for at 40 CFR section 372.38(b).

According to your letter, your client manufactures shock absorbers for automotive vehicles. Historically, your client has imported complete shock absorber tubes, filled them with compressed air and oil, and inserted a piston rod, which is held in place by a snap-ring. Your letter provides that "no forming, welding, machining, or other process took place, which could result in the release of 0.5 pound or more from the shock absorber. Therefore, I concluded that any toxic chemicals (chromium and nickel) in the steel were exempt from threshold determinations and release calculations as an 'Article'."

During reporting year 2000, however, your client also began fabricating certain shock absorber tubes. According to your letter, your client purchased steel tubes, heat formed one end, machined the snap-ring groove, and welded the clevis on the formed end. After the shock absorber tubes are fabricated, they are assembled into complete shock absorbers in a process identical to that used for the purchased shock absorber tubes described above.

Your letter states that the purchased shock absorber tubes and the fabricated shock absorber tubes cannot be interchanged. They have different lengths and diameters and they are used to assemble different shock absorber models. Based on this background information, you want to know if the purchased tubes and the fabricated tubes constitute "like articles." As you correctly note, page 13 of the 2000 Toxic Chemical Release Inventory Reporting Forms and Instructions (February 2001, EPA 745-B-01-001) states:

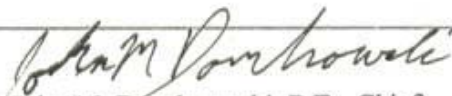
If the processing or otherwise use of all like items results in a total release of 0.5 pound or less of an EPCRA section 313 chemical in a reporting year to any environmental medium, EPA will allow this release to be rounded to zero, and the manufactured items retain their article status. The 0.5 pound threshold does not apply to each individual article, but applies to the sum of all releases from processing or otherwise use of all like articles.

Your letter indicates that you are requesting guidance as to whether the purchased shock absorber tubes and the fabricated shock absorber tubes are "like articles" because there are no releases from the purchased tubes. Considered independently from the fabricated tubes, the purchased tubes would qualify as articles making the toxic chemicals in the purchased tubes exempt from threshold determinations and release and other waste management calculations pursuant to the articles exemption.

Based on the information you have provided, the purchased tubes appear to qualify as articles eligible for the articles exemption. As for the tubes fabricated by your client, while the articles exemption does not apply to the manufacture of articles, the components (*e.g.*, the clevis and the tube itself) of the manufactured tube may qualify as articles eligible for the articles exemption. (See Q&A 347 in the 1998 EPCRA Section 313 Questions and Answers document, December 1998, EPA 745-B-98-004.) Finally, because the purchased tube and the fabricated tube have different physical characteristics (*e.g.*, different diameters, and they are not interchangeable) they are not "like articles."

I hope this information is helpful to you in understanding the reporting requirements of section 313 of EPCRA. If you have any other questions, or desire further information, please call Larry Reisman, of my staff, at 202.260.2301.

Sincerely,



John M. Dombrowski, P.E., Chief
TRI Regulation Development Branch